



2612

Docket No. 1232-4440

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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8-16-02

Applicant(s): Shigeo Yoshida

Group Art Unit: 2612

Serial No.: 09/069,419

Examiner: Moe, Augn Soe

Filed: April 29, 1998

For: PORTABLE ELECTRONIC APPARATUS, IMAGE PROCESSING METHOD,
PHOTOGRAPHING APPARATUS AND COMPUTER

CERTIFICATE OF MAILING (37 C.F.R. §1.8(a))

Commissioner for Patents
Washington, DC 20231

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Sir:

Technology Center 2600

I hereby certify that the attached:

1. Response to Election Requirement, and
2. Return Receipt Postcard

along with any paper(s) referred to as being attached or enclosed and this Certificate of Mailing are being deposited with the United States Postal Service on date shown below with sufficient postage as first-class mail in an envelope addressed to the: Commissioner for Patents, Washington, DC 20231.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: July 29, 2002

By: _____

Sungho Hong

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RESPONSE TO ELECTION REQUIREMENT

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S I R:

This submission is responsive to the Official Action dated June 27, 2002 in which the pending claims 1-32 were subject to an Election Requirement.

In the Official Action, Applicant is required to elect a single disclosed species for prosecution on the merits. In response to the Election Requirement, Applicant provisionally elects to pursue prosecution of the species of Figure 1 on which at least claims 1-10 and 30-32 are readable.

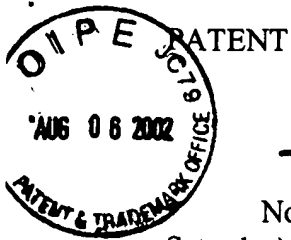
Applicant believes that the election requirement is improper and therefore make the above election with traverse.

Applicant respectfully submits that for an election requirement to be proper the MPEP, at section 803, is clear that "there are two criteria for restriction between patentably distinct inventions" as follows:

- (1) The inventions must be independent . . . ; and
- (2) There must be a serious burden on the examiner if restriction is not required

Applicants respectfully submit that (1) all species of restricted claims are properly presented in the same application; (2) undue diverse searching would not be required; and (3) all claims should be examined together. Examination of claims 11- 29 would place no additional "serious" burden on the examiner as examination of these claims would not require undue diverse searching beyond that which would be necessary for examination of claims 1-10 and 30-32.

Accordingly, Applicant respectfully submits that claims 11-29 should be examined on the merits as well.



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AUTHORIZATION

No fees are believed necessary in connection with this response (as July 27 falls on Saturday). Should an extension of time be required, such extension is petitioned. The Commissioner is authorized to charge any fees or credit any overpayments which may be required for this paper to Deposit Account Number 13-4500, Order No. 1232-4440. **A duplicate copy of this sheet is enclosed.**

An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: July 29, 2002

By:


Stephen J. Manetta
Registration No. 40,426

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